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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

CHRISTOPHER J.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Real Party in Interest.

B191724

(Super. Ct. No. CK58915)

Petition for extraordinary writ. (Cal. Rules of Court, rule 38.1) Debra L. Losnick, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied in part; granted in part.

Carrie Clarke for Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, Larry Cory, Assistant County Counsel, and Kim Nemoy, Deputy County Counsel, for Real Party in Interest.

Christopher J., the father, has filed a mandate petition challenging the respondent court's June 14, 2006 orders terminating reunification services and setting a parental termination rights hearing as to his three children. We agree with the Department of Children and Family Services (the department) that substantial evidence supports the respondent court's findings as to two of the children, Christopher J. and J. J. As to the remaining child, Cherish J., there is no evidence six months of services were offered as required by Welfare and Institutions Code section 361.5, subdivision (a)(2). We deny the petition as to Christopher J. and J.J. and grant it as to Cherish.

The father contends the juvenile court erred in finding the Department of Children and Family Services provided him with reasonable reunification services. We review dependency determinations for substantial evidence. (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 329; *In re Amy M.* (1991) 232 Cal.App.3d 849, 859-860.) We view the evidence in a light most favorable to the respondent court's findings. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010; *In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) Family preservation is the first priority when dependency proceedings are commenced. (*In re Precious J.* (1996) 42 Cal.App.4th 1463, 1472; *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787.) The Court of Appeal has held: "Reunification services implement 'the law's strong preference for maintaining the family relationships if at all possible.' [Citation.]" (*In re Elizabeth R., supra*, 35 Cal.App.4th at p. 1787 citing *In re Rebecca H.* (1991) 227 Cal.App.3d 825, 843.) Therefore, reasonable reunification services must be offered to a parent. (*Ibid.*; *In re Brittany S.* (1993) 17 Cal.App.4th 1399, 1406-1407.) The reunification plan is "a crucial part of a dispositional order" (*In re John B.* (1984) 159 Cal.App.3d 268, 275; accord *Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1165; *In re Brittany S., supra*, 17 Cal.App.4th at pp. 1406-1407; *In re Terry E.* (1986) 180 Cal.App.3d 932, 947.) The department must make a "good faith effort" to provide reasonable services responsive to the unique needs of each family. (*In re Precious J., supra*, 42 Cal.App.4th at p. 1472; *In re Monica C.* (1994) 31 Cal.App.4th 296, 306; *In re Kristin W.* (1990) 222 Cal.App.3d

234, 254.) Moreover, the Court of Appeal has held, “[T]he plan must be specifically tailored to fit the circumstances of each family (*In re Michael S.* [(1987)] 188 Cal.App.3d 1448, 1458), and must be designed to eliminate those conditions which led to the juvenile court’s jurisdictional finding. (*In re Rebecca H.*, *supra*, 227 Cal.App.3d at p. [837].)” (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.) The effort must be made to provide reasonable reunification services in spite of difficulties in doing so or the prospects of success. (*In re Elizabeth R.*, *supra*, 35 Cal.App.4th at p. 1790; *In re Brittany S.*, *supra*, 17 Cal.App.4th at pp. 1406-1407; *In re Dino E.*, *supra*, 6 Cal.App.4th at p. 1777.) The adequacy of the reunification plan and of the department’s efforts to provide suitable services are judged according to the circumstances of the particular case. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1362; *Armando L. v. Superior Court* (1995) 36 Cal.App.4th 549, 554; *Robin V. v. Superior Court*, *supra*, 33 Cal.App.4th at p. 1164.) But in the final analysis, the assessment of whether adequate services were provided is evaluated under the following circumstances: “‘In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.’” (*In re Misako R.* [, *supra*,] 2 Cal.App.4th [at p.] 547 [.]”) (*In re Julie M.* (1999) 69 Cal.App.4th 41, 48.)

First, there is substantial evidence to support the respondent court’s adequate reunification services findings as to two of the children, Christopher and J. There is evidence the father never participated in: parenting classes; anger management classes; domestic violence counseling; and drug testing. The respondent court found that the father was in court when his responsibilities to complete the reunification program were explained to him. On the other hand, the father testified he had participated in those programs. If he participated in the programs, then they were offered. The father was given the opportunity to visit the children but did so only on a single occasion. The father made no efforts to contact the social worker and arrange visits. By contrast, there

is evidence department social workers made extensive efforts to contact the father. There is substantial evidence the department provided adequate reunification services as to Christopher and J.

Second, there is no substantial evidence six months of reunification services were provided while Cherish was in foster care. Welfare and Institutions Code section 361.5, subdivision (a)(2) provides that when a child is under the age of three years, as is Cherish, reunification services shall not exceed six months from the date the youngster entered foster care. Cherish is deemed to have entered foster care on February 6, 2006, the date the respondent court entered the jurisdictional finding. (Welf. & Inst. Code, § 361.5, subd. (a)(3).) The respondent court terminated reunification services on June 14, 2006, which was less than six months after February 6, 2006. Hence, there is no substantial evidence six months of reunifications services were offered as required by Welfare and Institutions Code section 361.5, subdivision (a)(2). Since the time period for completing reunification services had not expired as to Cherish, the court could not in compliance with Welfare and Institutions Code sections 366.2, subdivision (g) and 366.22, subdivision (a) order a permanent plan hearing. There is no merit to the department's argument that because the father was in custody it was relieved of the court ordered obligation to provide reunification services. Incarcerated parents are entitled to services. (Welf. & Inst. Code, § 361.5, subd. (e); *Mark N. v. Superior Court*, *supra*, 60 Cal.App.4th at p. 1011; *In re Precious J.*, *supra*, 42 Cal.App.4th at p. 1472; *In re Brittany S.*, *supra*, 17 Cal.App.4th at p. 1406.) We do not quarrel with the adequacy of the services; rather, they did not last long enough as to Cherish to permit the scheduling of a Welfare and Institutions Code section 366.26 hearing. Finally, there is no merit to the department's forfeiture contention; matters of substantial evidence are not waived. (*People v. Butler* (2003) 31 Cal.4th 1119, 1126, fn. 4; *In re Joshua G.* (2005) 129 Cal.App.4th 189, 200, fn. 12.) The respondent court is to order six more weeks of reunification services be provided to the father and schedule a Welfare and Institutions Code section 366.22 hearing solely as to Cherish.

The petition is denied as to Christopher and J. The petition is granted as to Cherish. As to all the of the children, this opinion is final forthwith. (Cal. Rules of Court, rule 24(b)(3).)

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TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.